

Criminal Misc. M- No. 35974 of 2016 (O&M)

Date of decision : April 03, 2017

Hari Parkash

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Vikrant Hooda, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

Mr. Robin Singh Hooda, Advocate
for the complainant.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 69 dated 19.08.2016 registered under Sections 498-A, 406, 323, 506, 354-A(1), 354-B, 377, 34 IPC and Section 376 IPC added later at City Police Station Women Cell Sonipat.

The petitioner is serving as a Head Constable with Delhi police. Petitioner is the father-in-law of the complainant, who herself is serving as a Head Constable with Delhi police. It is submitted by the learned counsel for the petitioner that there is a delay of 7½ months in the lodging of the FIR. It is not possible that the petitioner would have not raised her voice for such a long time in case there was any truth in the allegations. The abovesaid FIR

is the result of matrimonial discord between the complainant and her husband Vikram (in custody). The allegations against the petitioner have been falsely levelled only to build pressure. It is submitted that allegations against the petitioner are patently false. Reference is made to copy of the station Daily Diary reflecting that the petitioner was on duty on 19.01.2016 and he was relieved from duty at 9.50 p.m. Moreover, the petitioner's wife was present at home at the relevant time. Furthermore, the complainant's husband is in custody. No recovery is to be effected from the petitioner, who joined investigation pursuant to order dated 17.10.2016. Thus, it is prayed that this petition be allowed.

Learned counsel for the State had sought time to verify the entries in the Daily Diary showing the presence of the petitioner at the place of his duty at the relevant time. As per affidavit dated 24.03.2017 of Sh. Bharti Dabas, HPS, Deputy Superintendent of Police, City, Sonipat, it is not denied that the petitioner's presence is reflected in the said Daily Diary dated 19.01.2016. He is reflected to have left his place of posting at 9.50 p.m. as per the entry therein. It is, further, mentioned that during investigation it has come to light that as per the call detail records of the petitioner, he was present in the area of Badli Industrial Estate, Delhi at about 7.48 p.m. It takes approximately 40 to 50 minutes to reach Bawana from Badli Industrial Estate. As per the said call detail record, the mobile location was at Khazan Singh Market, Main Bus Stand, Bawana that is the place near his residence. It is, thus, stated that the petitioner being marked present at the place of posting is inconsequential.

Be that as it may, the veracity of the entries in the daily diary dated 19.01.2016 and the call detail records shall be determined during the

course of trial. The petitioner has undoubtedly joined investigation. No recovery is to be effected from him. There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is considered just and expedient to allow this petition. Consequently, order dated 17.10.2016 is made absolute.

It is reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

April 03, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes/No